

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**March 17, 2004**

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and D. Nolan,  
Deputy Clerk.

B169279      Condon v. Wong

Argument waived, cause submitted.

B166185      American Insurance Protection Company  
v.  
John Swidrack,  
Andres Pineda, et al.

Merits:

Argued by Jeremy D. Dolnick for appellants and by John Donnelly for  
respondent. Cause submitted.

B167679      Daniel Fuentes  
v.  
County of Los Angeles

Merits:

Argued by George Baltaxe for appellant and by William Balderrama for  
respondent. Cause submitted.

DIVISION ONE (Continued)

B162099     Rod Langley, et al.  
              v.  
              Am-PM Door Inc.,  
              Federal Express Corp.

Merits:

Argued by Timothy D. Rand-Lewis for appellant and by Karen M. Bray for respondent. Cause submitted.

Mallano, J. leaves the bench.

B164350     West Century 102 LTD., et al.  
              v.  
              City of Inglewood, et al.

Merits:

Argued by George W. Coleman for appellants and by Robert L. Fairman for respondents. Cause submitted.

Mallano, J. returns to the bench.

Vogel, J. leaves the bench.

B164751     Adam Zieba  
              v.  
              David Swan, et al.

Merits:

Argued by Martin R. Berman for appellant and by Gina McCoy for respondents. Cause submitted.

March 17, 2004 (Continued)

DIVISION ONE (Continued)

B163347     Guardian Angel Polish National Catholic Church  
               v.  
               Casimir J. Grotnik, et al.

Merits:

Argued by Paul A. de Lorimier for appellants and by Mark Macarley for respondent. Cause submitted.

Vogel, J. returns to the bench.

B166058     Apex Management  
               v.  
               George Adamian

Merits:

Argued by Calvin House for appellant and by Richard Gibson for respondent. Cause submitted.

Vogel, J. leaves the bench.

B163108     ECC Construction  
               v.  
               Oak Park Calabasas, Homeowner's Association

Merits:

Motion to Dismiss argued by Barbara W. Ravitz for respondent and by Wendy C. Lascher for appellant.

Court adjourned.

March 17, 2004 (Continued)

## DIVISION ONE (Continued)

B167232 People (Not for Publication)  
v.  
White

The judgment is affirmed, and the cause is remanded to the trial court with directions to correct its sentencing minute order to reflect the proper Code.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Mallano, J.

B169030      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Dana M.

The orders are affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Mallano, J.

## DIVISION THREE

B169061 People (Not for Publication)  
v.  
Manuel Jaimes

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

### DIVISION THREE (Continued)

B170084 People (Not for Publication)

$$\mathbf{V}_i$$

Jose Flores

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.

Aldrich, J.

B167085 People (Not for Publication)

V.

Alex Allbeck

The abstract of judgment is ordered modified to reflect a term of 25 years to life for burglary in count I, a stayed term for burglary in count II and receiving stolen property in count III, a concurrent term of 180 days for giving false information to a peach officer in count IV, a consecutive term of four years for burglary in count V, and five 5-year enhancements pursuant to Penal Code section 667, a subdivision (a)(1), for a total unstayed term of 54 years to life in state prison. As so modified, the judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.

Aldrich, J.

B170428 People (Not for Publication)

V.

Terrell Silver

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.

Aldrich, J.

DIVISION THREE (Continued)

B159239      Universal Savings Bank      (Not for Publication)

v.

Bankers Standard Insurance Company, et al.

The judgment is affirmed as to counts one, two, and four, and reversed as to counts three, five, and six. Each party is to bear its own costs on appeal.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Aldrich, J.

B164176      Gibraltar Products, Inc.      (Not for Publication)

v.

Ghassan Attar, et al.

The order and judgment are reversed only as to the trial court's finding of a prevailing party. The trial court is directed to enter a new and different judgment indicating that there was no prevailing party in this litigation, and that neither party is entitled to an award of costs or attorney fees as costs. Defendants are awarded costs on appeal.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Aldrich, J.

March 17, 2004 (Continued)

### DIVISION THREE (Continued)

B159131 People (Not for Publication)  
v.  
Raul Casian, Jr.

The prior opinion in this cause is filed on February 26, 2003, is vacated. The judgment is reversed with directions to the superior court to vacate its order denying the motion to suppress, allow a full and complete evidentiary hearing on the issues remaining, determine whether the search was justified by exigent circumstances or as a search incident to an arrest, enter a new order granting or denying the motion, and conduct further proceedings consistent with this opinion.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.

## DIVISION FOUR

B170313      The People      (Certified for Publication)  
v.  
Superior Court, Los Angeles County  
(German, r.p.i.)

Let a peremptory writ of mandate issue directing the respondent court to vacate its order granting German's petition for habeas corpus, and to enter in its place a new order denying German's petition. The temporary stay is lifted upon entry of the new order.

Hastings, J.

We concur: Epstein, Acting P.J.  
Curry, J.

March 17, 2004 (Continued)

## DIVISION FOUR (Continued)

B164798 People (Not for Publication)  
v.  
Leandro D.

The judgment as to count 1 is affirmed; the judgment as to count 2 is reversed.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

B170588 Olga A. (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles Co. Dept. of Children and Family Services et al., (r.p.i.))

The petition for writ of mandate is denied by opinion.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

## DIVISION FIVE

B164722 People (Not for Publication)  
v.  
Alejandro Vega

The judgment is affirmed.

Grignon, Acting P.J.

We concur:   Armstrong, J.  
                      Mosk, J.



March 17, 2004 (Continued)

DIVISION FIVE (Continued)

B165390      Francisco Ayala                      (Certified for Partial Publication)  
                 v.  
                 Mercury Insurance Company

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

I concur:      Grignon, J.  
I concur:      Turner, P.J. (opinion)

B166894      People                                      (Not for Publication)  
                 v.  
                 Jesse Eduardo Arebalo

The judgment is affirmed.

Armstrong, J.

We concur:      Turner, P.J.  
                 Mosk, J.

DIVISION SIX

B165157      People                                      (Not for Publication)  
                 v.  
                 Millan

The judgment of conviction is affirmed. We reverse the true findings on the prior conviction and prior prison term allegations and remand for further proceedings and resentencing. After resentencing, the trial court is directed to prepare a modified abstract of judgment and forward it to the Department of Corrections.

Yegan, Acting P.J.

We concur:      Coffee, J.  
                 Perren, J.

## March 17, 2004 (Continued)

## DIVISION SIX (Continued)

B163525 Kapner  
v.  
Meadowlark Ranch Association

The court on its own motion orders rehearing of the decision filed on February 18, 2004.

B163525      Kapner      (Certified for Publication)  
v.  
Meadowlark Ranch Association

The judgment is affirmed. Costs are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

B163544 Humkar, etc., et al. (Not for Publication)  
v.  
Petillo, etc., et al.

We affirm: (1) the summary judgment in the specific performance action (SC030649); (2) the order in that action awarding attorney fees to respondents; and (3) the judgment of dismissal entered after the trial court sustained, without leave to amend, respondents' demurrer to the complaint in the separately filed action for fraud (SC034012). Respondents shall recover their costs on appeal.

Yegan, Acting P.J.

We concur: Coffee, J.  
Perren, J.

B170471 People  
v.  
San Luis Obispo County Superior Court (Otriz)

Filed order denying petition for rehearing.

## March 17, 2004 (Continued)

## DIVISION SIX (Continued)

B167506      McDaniel      (Not for Publication)

$$\mathbf{V}_i$$

County of Ventura, et al.

The judgment is affirmed. Costs on appeal are awarded to County.

Perren, J.

We concur: Yegan, Acting P.J.

Coffee, J.

B167054 People (Not for Publication)

 $\mathbf{V}_i$ 

Estrada

We modify the judgment to strike the 10 year gang enhancement (section 186.22, subd. (b)(1)), the 10 year firearm enhancement (section 12022.53, subd. (b)), and the 20 year firearm enhancement (section 12022.53, subd. (c)). Because the abstract of judgment makes no reference to these enhancements, the trial court need not issue an amended abstract of judgment. The sentence remains the same, 40 years to life. The judgment, as modified, is affirmed.

Yegan, J.

We concur:    Gilbert, P.J.

Perren, J.

B164311 People (Not for Publication)

**V.**

Johnson

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.

Coffee, J.

March 17, 2004 (Continued)

DIVISION SIX (Continued)

B169347      Silvers      (Not for Publication)

v.

Waters, et al.

We remand the matter to the trial court for a determination of attorney's fees and costs. In all other respects, the judgment is affirmed. Costs on appeal are awarded to Respondents.

Coffee, J.

We concur:   Yegan, Acting P.J.  
                  Perren, J.

DIVISION SEVEN

B166795      People      (Not for Publication)

v.

Anderson

The judgment is affirmed.

Perluss, P.J.

We concur:   Johnson, J.  
                  Woods, J.

B162219      People      (Not for Publication)

v.

Wright

The judgment is affirmed.

Perluss, P.J.

We concur:   Johnson, J.  
                  Woods, J.

March 17, 2004 (Continued)

## DIVISION SEVEN (Continued)

B167379 People (Not for Publication)  
v.  
Bradshaw

The judgment of the superior court is affirmed in part and reversed in part, and the matter is remanded for a further evidentiary hearing on defendant's 1995 juvenile adjudication.

Zelon, J.

We concur:   Perluss, P.J.  
                      Woods, J.

## DIVISION EIGHT

B165447 People (Not for Publication)  
v.  
Hernandez

The judgment is modified by staying the sentence on count two under Penal Code section 654 and awarding appellant one additional day of presentence custody credit. In all other respects, the judgment is affirmed. The trial court is directed to issue an amended abstract of judgment reflecting the aforementioned modifications of the judgment and the application of a great bodily injury enhancement to count two only.

Boland, J.

We concur: Cooper, P.J.  
Rubin, J.